

REMARKS

This paper responds to the Office Action of May 7, 2009, in which the Examiner rejected claims 40, 41, 43, and 47 under 35 U.S.C. § 102(b), and rejected claims 45, 46, and 48 under 35 U.S.C. § 103(a).

In response, claims 49-51 have been added. In view of the amendments and the following remarks, reconsideration and allowance are respectfully requested.

Rejection under 35 U.S.C. § 102

Claims 40, 41, 43, and 47 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,380,279 (Schmidt). The rejections are traversed for at least the following reasons.

Independent Claim 40 is Not Anticipated by Schmidt

Claim 40 is directed to a method for administering an injectable product from a reservoir comprising, in part, “decreasing the volume of the first volume, thereby causing the amount of fluid in the second volume to increase, wherein the first volume is decreased by urging a first piston against the first volume; and wherein the increasing second volume causes the second volume to exert a compression force on a second piston that drives the second piston, which causes the administration of injectable product from the reservoir.”

Schmidt discloses an animal vaccination gun 10 that includes a filling chamber 27 having a piston 31 slidably mounted therein, and a metering chamber 37, which is in fluid communication with the filling chamber 27, having a piston 41 slidably mounted therein. *Schmidt*, column 3, lines 18-45. The gun 10 further includes a spool valve 47 in selective fluid communication with the metering chamber 37 such that the contents of the metering chamber 37 can be discharged from the gun 10. *Schmidt*, column 4, lines 13-20. Regarding cooperation of the filling chamber 27 and the metering chamber 37 to administer medicament, Schmidt explains:

After the desired amount of medicament has entered into the filling chamber 27, the handle 35 is released which allows the spring 36 to displace the piston 31 upwardly and thereby force the fluid to flow out of the filling chamber opening 30. The fluid flows out of the filling chamber 27 *Schmidt*, column 5, lines

15-20.

[T]he spring biased piston 31 forces [the fluid] to flow into the housing flow passage second portion 33 and into the metering chamber 37 via the metering chamber opening 40. Since the bias of the spring 36 in the filling chamber 27 is stronger than the bias of the spring 45 in the metering chamber 37, the piston 41 in the metering chamber is forced downwardly against the bias of the spring 45 by the fluid filling the metering chamber 37. *Schmidt*, column 5, lines 25-32.

As shown in FIG. 4, in order to administer an injection of the medicament, the needle 56 is inserted into the skin 75 of the animal to be vaccinated and the spool valve 47 forced back into the housing upper portion 12 by contact of the spool valve 47 with the animal's skin 75. The spool valve 47 slides back into the housing bore 46 in the housing flow passage second portion 33 until the opening 61 provided in the spool valve second portion 60 is brought into fluid communication with the opening 40 of the metering chamber 37. Due to the bias of the spring 45, the piston 41 in the metering chamber 37 is forced upwardly thereby expelling the fluid from the metering chamber through the fluid passage 57 provided in the spool valve 47, out of the needle 56 and into the animal. *Schmidt*, column 5, lines 39-53.

That is, Schmidt discloses increasing the volume of fluid in metering chamber 37 by decreasing the volume of filling chamber 27 (by urging piston 31 against the chamber 27), and discharging fluid from the gun 10 by decreasing the volume of fluid in metering chamber 37 (by urging piston 41 against the chamber 37). In contrast, claim 40 requires that “increasing [the] second volume . . . causes the administration of injectable product from the reservoir.” (emphasis added).

Because the Examiner references FIG. 4 of Schmidt with respect to anticipation of the claim limitation “wherein the increasing second volume causes the second volume to exert a compression force on a second piston that drives the second piston, which causes the administration of injectable product from the reservoir,” it is assumed the Examiner is asserting that the increase in volume of the metering chamber 37 behind piston 41 during fluid discharge satisfies the limitation. Applicant disagrees. First, if the volume behind the piston 41 is related to the claimed “second volume” for anticipation of a particular limitation of claim 40, that same volume must be related the claimed “second volume” for all limitations of claim 40 (i.e., the “second volume” cannot be the volume in front of piston 41 for purposes of anticipating one limitation, and the volume behind the piston 41 for purposes of anticipating another). Second, it

is not the increasing volume behind the piston 41 that exerts a compression force on the piston 41, but rather, the force of the spring 45.

Moreover, claim 40 recites “an injectable product,” which is administered from a reservoir, and “a fluid,” which is transferred from a first volume to a second volume to cause administration of the injectable product. That is, the injectable product and fluid recited in claim 40 are two distinct substances provided in two different locations, one of which causes the administration of the other. Thus, the medicament of Schmidt cannot reasonably be interpreted to anticipate both of these two recited elements.

For at least the foregoing reasons, Schmidt does not disclose the invention of claim 40. Reconsideration and allowance are thus respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 45, 46, and 48 were rejected under 35 U.S.C. § 103(a) as unpatentable over Schmidt. Claims 45, 46, and 48 depend directly from claim 40. Accordingly, claims 45, 46, and 48 are patentable over Schmidt for at least the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

New Claims

Claims 49-50 depend directly from claim 40. Accordingly, claims 49-50 are patentable over Schmidt for at least the reasons presented above and, further, in view of their additional recitations. Allowance is thus respectfully requested.

Claim 51 is directed to a method for administering an injectable product from a reservoir, the method comprising, in part, “decreasing the volume of the first volume, thereby causing the amount of fluid in the second volume to increase, wherein the first volume is decreased by urging a first piston in a first direction against the first volume; and wherein the increasing second volume causes the second volume to exert a compression force on a second piston that drives the second piston in a second direction, which causes the administration of injectable product from the reservoir.” Claim 51 is patentable over Schmidt for at least the reasons presented above with respect to claim 40 and, further, in view of its additional recitations.

Conclusion

No additional fees should be due in connection with this paper, but the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application is in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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Date:

August 4, 2009

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